



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2012-0452; FRL-9680-6]

EPA Activities to Promote Environmental Justice in the Permit Application Process

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Availability of Proposed Regional Actions to Promote Public Participation in the Permitting Process and Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits; Request for Comments.

SUMMARY: As part of its ongoing efforts under Plan EJ 2014 to integrate environmental justice into all of its programs, the Environmental Protection Agency (EPA) is soliciting public comment on ways that EPA and permit applicants can meaningfully engage communities in the permitting process. This notice describes and seeks comment on actions that EPA regional offices can take when issuing EPA permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process. This notice also announces the availability of draft best practices for permit applicants seeking EPA-issued permits (located in the appendix to this notice). The best practices are designed to encourage and assist permit applicants to reach out to neighboring communities when applying for permits that may affect the community's quality of life, including their health and environment.

DATES: Written comments must be received on or before [*insert date 60 days after publication in the Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2012-0452 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- Mail: “**Plan EJ 2014: Considering EJ in EPA’s Permitting Process**” Docket, Environmental Protection Agency, EPA Docket Center, Mailcode 28221T, 1200 Pennsylvania Ave, NW, Washington, DC 20460
- Hand Delivery: “**Plan EJ 2014: Considering EJ in EPA’s Permitting Process**” Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave, NW, Washington, DC, 20460. Such deliveries are accepted only during the Docket’s normal hours of operation, and special arrangement should be made for deliveries of boxed information.

EPA’s policy is that all comments received will be included in the public docket without change and may be available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information of which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, avoid any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/cpallomc/dockets.htm>. EPA also encourages the public to review and participate in the Environmental Justice in Action Blog which can be found at <https://blog.epa.gov/ej>. EPA intends to use the Environmental Justice in Action Blog to encourage different public stakeholders to dialogue over the ideas set forth in

this Federal Register Notice. The Environmental Justice in Action Blog does not replace the conventional public comment process described above. Rather, EPA hopes that the Environmental Justice in Action Blog provides an informal public forum for stakeholders to exchange idea and share views, which may help shape comments submitted to EPA through Regulations.gov. As this public participation initiative illustrates, EPA believes that early and frequent dialogue among people with different points of view can lead to more thoughtful outcomes.

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I. General Information:

Expanding the conversation on environmentalism and working for environmental justice are top priorities of the Environmental Protection Agency (EPA). In 2011, EPA published Plan EJ 2014, the Agency's overarching strategy for advancing environmental justice. The Plan has three objectives:

1. Protect health and the environment in overburdened communities;
2. Empower communities to take action to improve their health and environment; and
3. Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

The year 2014 marks the 20th anniversary of the signing of Executive Order 12898 on environmental justice, which directs each federal agency to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities.” Plan EJ 2014 is EPA’s roadmap for integrating environmental justice into its programs, policies and activities. One focus area of the Plan is “Considering Environmental Justice in Permitting.” Environmental permits play a key role in providing effective protection of public health and the environment in communities. Thus, Plan EJ 2014 calls upon EPA to: (1) enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits; and (2) take steps to meaningfully address environmental justice issues in the permitting process for EPA-issued permits to the greatest extent practicable.

Plan EJ 2014 directs EPA to make achieving environmental justice part of its mission, and to be a leader among federal departments and agencies in addressing the impacts of federal activities on overburdened communities. EPA believes that environmental permitting presents opportunities to address environmental justice, and that the Agency has the responsibility to lead by example to address environmental justice in permits issued by EPA. Therefore, the actions described in this notice focus on EPA-issued permits. Although EPA issues few environmental permits compared to state, local and tribal governments that implement federal environmental laws as approved or delegated by EPA, EPA intends to share its experiences and ideas with these governments as well as with other federal agencies, with the goal of promoting similar efforts.

In this notice, EPA focuses on enhancing the opportunity and ability of overburdened communities to participate in the permitting process. Overburdened communities are communities that potentially experience disproportionate environmental harms and risk as a

result of cumulative impacts or greater vulnerability to environmental hazards. EPA believes that the participation of overburdened communities in the permitting process is an essential step toward the ultimate goal of achieving permits that meaningfully address environmental justice issues. Following the National Environmental Justice Advisory Council (NEJAC) recommendation to encourage more public participation in the permitting decision-making process, EPA has identified actions that EPA and permit applicants, both for new and renewed permits, can take to reduce barriers to participation in the permitting process. In overburdened communities, these barriers can include lack of trust, lack of awareness or information, language barriers, and limited access to technical and legal resources. In EPA's view, more transparency and dialogue can lead to better permit outcomes for the community as well as permit applicants. Thus, EPA believes it is especially important to make special efforts to provide enhanced public participation opportunities to overburdened communities, particularly minority, low-income, and indigenous communities. EPA also realizes that enhanced public engagement is only one aspect of attention to environmental justice in the context of permitting.

Both EPA regional offices and permit applicants can – and in some cases already do – bring overburdened communities into the permitting process through special outreach efforts. EPA believes that permit applicants have unique opportunities in this area. Many companies are already active, contributing members of the community. In addition to their important role as a source of employment and economic stability within a community, permit applicants play other roles. Many facilities applying for permits, for example, have robust community engagement strategies that recognize the value of community outreach. Pursuant to these strategies, facilities engage actively with the community through environmental initiatives, neighborhood beautification projects, education programs and charitable giving, civic programs and the arts,

youth activities, and other investments in the community. These existing ties between permit applicants and the broader communities where they are located provide a foundation for permit applicants to reach out to their immediate neighbors along the facility's fence-line – ideally, to discuss health or environmental issues associated with their plans for new or increased pollutant releases.

EPA has compiled the draft list of activities and best practices presented in this notice from many sources. EPA surveyed its regional offices, where EPA permitting activity predominantly occurs, to determine what steps are currently or could be taken to meaningfully involve overburdened communities in the permitting process. Additionally, EPA conducted numerous listening sessions, conference calls and meetings with a variety of stakeholders, including environmental justice stakeholders, members of the business community, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC, to gather more input on how to enhance participation of overburdened communities in EPA's process of issuing environmental permits. One set of ideas, presented in Section II below, focuses on activities that EPA, as the permitting authority, can undertake to make it easier for communities to engage meaningfully and effectively in the permitting process. The second set of ideas, described in Section III below, presents best practices that permit applicants can use to initiate and sustain a dialogue with the communities at their fence-line when the companies seek environmental permits that may be affected by the permitting action.

EPA recognizes that some states have made significant progress in meaningfully involving overburdened communities in the permitting process. While the focus of today's notice is on EPA-issued permits, EPA believes that states with experience in this area can provide valuable information that will strengthen EPA's efforts. Therefore, EPA invites states to

share their ideas for ensuring the meaningful involvement of overburdened communities in the permitting process and encouraging dialogue between permit applicants and communities.

The ideas in this notice are meant to complement all of the other tools and resources developed under Plan EJ 2014 and other EPA initiatives to aid communities and EPA permitting authorities in incorporating environmental justice into the permitting process. The tools and resources include the EJ [Legal Tools](#), which addresses EPA's legal authority to consider environmental justice, EPA's effort to develop a [nationally consistent screening tool for environmental justice](#), and EPA's efforts to meaningfully engage local communities and stakeholders in government decisions on land cleanup, emergency preparedness and responses and the management of hazardous substances and wastes through the [Community Engagement Network](#), and EPA's collaboration with other federal agencies to improve our community-based actions and assistance and to strengthen the use of [interagency legal tools](#), such as the National Environmental Policy Act and Title VI of the Civil Rights Act. These resources supplement information disseminated by [EPA regional offices](#) about their permit processes and particular permits.

II. Actions that EPA Regional Offices Can Take to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities

As noted above, EPA has identified a number of activities and approaches that can be used to promote greater public involvement of overburdened communities in its permitting processes, particularly for major permitting actions that may significantly impact them. Each EPA regional office will put in place a regional implementation plan to address meaningful engagement of overburdened communities in their permitting activities. This notice describes the general

expectations for the regional plans and presents the framework and specific activities intended to enhance public participation.

EPA's expectation is that each regional office will use the agency-wide guidelines to develop a regional implementation plan that is appropriate for the particular circumstances within that region. The agency-wide guidelines in this notice are designed to promote consistency among regional offices and provide EPA's expectation for a basic regional plan. At the same time, EPA recognizes that each permit and community is different and that each EPA regional office has the insight and experience to develop strategies tailored to the particular communities and needs within that region. Therefore, EPA couples these agency-wide guidelines with the expectation that EPA regional offices have the flexibility in developing their implementation plans to take actions suited to the concerns of impacts on overburdened communities typically raised within their regions.

This notice does not address any obligations imposed by the Civil Rights Act of 1964 or under EPA regulations at 40 CFR Part 7. Please refer to [EPA's Guidance to Environmental Protection Agency Financial Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#) and [Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs](#).

This notice does not address [Executive Order 13175](#) or [EPA's Policy on Consultation and Coordination with Tribes](#). It is important to note the difference between the meaningful involvement of tribal communities as it is used in the EJ context and consultation with tribes. The Agency's responsibilities under E.O. 13175 are separate from the responsibilities under E.O. 12898 and stem from federally recognized tribes' status as sovereign governments.

The activities described in this notice go beyond the standard notice-and-comment procedures required by law. EPA believes, however, that enhanced outreach can help to remove some of the barriers that can discourage overburdened communities from participating in permit processes that affect them and are appropriate in some circumstances.

A. Agency-Wide Guidelines for EPA Regional Offices

The guidelines presented here provide a framework for the regional offices to identify possible actions they can take to promote the meaningful engagement of overburdened communities for priority permits. Specifically, the guidelines for EPA regional offices are designed to: (1) help regional offices identify which permits to prioritize for greater public involvement for overburdened communities; and (2) suggest activities the regional offices can undertake to promote greater public involvement in their permitting process.

1. Priority Permits for Enhanced Public Involvement Opportunities

Although any permit action may be an opportunity to enhance the engagement of a community, EPA believes that it is particularly important to provide meaningful engagement opportunities in permitting actions that may have significant public health or environmental impacts, such as a new operation or a modification of an existing operation, which may affect overburdened communities. Significant public outreach and engagement require significant resources. EPA recognizes its regional offices' limited ability to enhance engagement for every EPA-issued permit as well as the limited ability of overburdened communities to engage on every permit potentially impacting them. For this reason, EPA will consider prioritizing enhanced public involvement opportunities for those EPA-issued permits with significant public health or environmental impacts on already overburdened communities, determined by regional

offices' use of a screening tool or other methodology. Examples of permits that may have significant public health or environmental impacts include, but are not limited to, the following:

- Construction permits under the Clean Air Act, especially new major sources (or major modifications of sources) of criteria pollutants;
- Significant Underground Injection Control Program permits under the Safe Drinking Water Act;
- “Major” industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act that are for:
 - New sources or new dischargers, or
 - Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;
- “Non-Major” industrial NPDES permits (as defined in 40 CFR 122.2) under the Clean Water Act that are identified by EPA on a national or regional basis as a focus area, for:
 - New sources or new dischargers, or
 - Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;and
- RCRA permits associated with new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving potential off-site impacts.

In addition, EPA will consider prioritizing for enhanced public involvement activities both permit applications and renewals for which a community has raised plausible environmental justice concerns, and permit applications and renewals where EPA has other information indicating environmental justice concerns related to the permit.

In further recognition of EPA's regional offices' limited ability for enhanced public engagement, a regional office may not prioritize every EPA-issued permit with significant public health or environmental impacts on already overburdened communities.

Additionally, there may be circumstances under which a regional office finds enhanced public outreach appropriate irrespective of whether the permitting action has a significant public health or environmental impacts on already overburdened communities.

2. Regional Offices' Activities to Promote Greater Public Involvement in the Permitting Process

Presented below is a proposed list of activities that EPA regional offices could undertake at key junctures in the permitting process to promote greater involvement of overburdened communities. The list of proposed activities is intended to identify priority areas of activity and to provide options for proposed activities in the development of regional implementation plans. Regional offices, therefore, may choose not to implement all of the proposed activities listed below. Similarly, the list of activities is not meant to be comprehensive or exhaustive. Different situations will justify different responses.

Planning & Gathering Information:

- Identify upcoming priority permits for promoting greater public involvement.
When identifying priority permits, focus on permits that the community has identified as a priority, to the extent such information is available.
- Locate existing [data](#) and studies that are relevant to the particular community.
- Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, public affairs staff, the press office, and EPA's Conflict Prevention & Resolution Center.
- Evaluate the appropriate length of the public comment period.
- Consider holding information meetings for the public in addition to formal public comment sessions.

Coordinating within EPA:

- For applicants with multiple EPA permits, inform EPA permit writers from other offices in the region that your office has received a permit application from the applicant.

Communicating with the Community:

- Designate EPA point(s) of contact that the community can contact to discuss environmental justice concerns or questions of a technical nature about the permit application.
- Explain the permitting process by making informational fact sheets available.
- Use plain language when communicating with the public.
- Use communication techniques the community values, such as direct mailings, posters, articles in local newspapers, and emails to list serves.

- Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents).
- Make key documents on the proposed project readily accessible to the community, using a variety of media tools (paper copies, online, etc.), when appropriate.
- Hold public meetings at times and places in the community best designed to afford the public a meaningful chance to attend.
- After the permit has been issued, make available to the community a summary of EPA's comment responses and provide information on where the community can find the entire comment response document.

Communicating with the Permit Applicant:

- Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application.
- Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including the (when finalized) Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line. (See appendix.)

B. EPA's Expectations for Regional Implementation Plans

EPA expects each regional office to develop, implement and make publically available a regional implementation plan consistent with the agency-wide guidelines presented in this notice in order to support the meaningful engagement of overburdened communities in the permitting

process for priority permits. EPA believes that regional offices will be better able to provide opportunities for enhanced public participation when they have planned and allocated resources for outreach in advance through the development of regional implementation plans. EPA also believes that making the regional implementation plans publically available will increase transparency and inform communities of EPA regional offices' efforts to create opportunities for overburdened communities to meaningfully engage in the permitting process.

EPA expects the regional implementation plans to address with more specificity the process that a regional office will use to prioritize permits for enhanced engagement, including the types of permits and activities the regional offices plan to implement. EPA expects the regional plans to be tailored to the region's specific needs but also to be consistent with the agency-wide guidelines direction on prioritization of permits for enhanced engagement and priority areas of outreach activities outlined in today's notice.

Consistent with the agency-wide guidelines previously discussed, the regional implementation plans will include:

- I. The EPA Regional Office's process for prioritizing permits for enhanced engagement
 - a. Use of a screening tool or other methodology to identify already overburdened communities;
 - b. Types of permits with significant public health or environmental impacts.
- II. Priority Enhanced Outreach Activities
 - a. Planning and gathering information;
 - b. Coordinating within EPA;
 - c. Communicating with the Community;
 - d. Communicating with the Permit Applicant.

C. Solicitation of Comments

EPA welcomes all comments on the proposed actions that Regional offices can take to promote the meaningful engagement of overburdened communities in the permitting process, but is particularly interested in comments addressing the following questions:

- Has EPA identified the appropriate agency-wide guidelines to inform the development of regional implementation plans? What other guidelines should EPA consider that provide both agency-wide consistency and regional flexibility in promoting the meaningful engagement of overburdened communities in the permitting process?
- What criteria should regional offices use to prioritize permits for enhanced outreach?
- For priority permits, has EPA identified the appropriate activities that regional offices can take to promote the greater involvement of overburdened communities in the permitting process? What other activities should EPA consider?
- Based on experiences you have had in the permitting process, what lessons have you learned that can be applied to improve the agency-wide guidelines or the regional implementation plans?

III. Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line

Even though EPA is the permitting authority for EPA-issued permits, both the permit applicant and the potentially affected community are also key stakeholders in the permit process. Therefore, EPA engaged in extensive outreach to these stakeholders, and in particular the business community, on how to meaningfully engage fence-line communities in the permitting

process. Business leaders on environmental justice issues shared their experiences and insights with EPA. EPA learned that if a permit applicant engages a community early and maintains that conversation, a partnership can form that facilitates the exchange of information and provides the foundation for dialogue on issues that may arise during the permitting process.

Such engagement may be especially beneficial with communities that have historically been underrepresented in the permitting process and that potentially bear a real or perceived disproportionate burden of an area's pollution. EPA learned from its conversations with business stakeholders that dialogue with the community early in the permitting process promotes reasonable expectations among the public and, therefore, more predictable outcomes for the permit applicant. EPA also learned that permit applicants that invest in outreach may avoid the costs of delay, negative publicity among peers and investors, and community distrust resulting from a community objecting to a permit late in the permitting process.

EPA believes that a facility that believes in environmental stewardship in all its dimensions and that acts consistently with that belief, including accountability to the neighboring community, may achieve more environmental good than any permit can compel. Reducing treatment failures, spills or other incidents becomes a source of organizational pride when the trends – and the facility's response and prevention strategies – are publicized within the community. These practices also make good business sense because facilities save energy, devise new technologies, reduce the rate of equipment failures, and develop cleaner products, among other things. This ethic of corporate responsibility – more than any permit – can improve the environment at the fence-line and far beyond. Engaging meaningfully with the local community is another facet of responsible corporate citizenship that achieves environmental results. EPA believes that a partnership with the community can lead to more informed permits,

resulting in better outcomes for the permit applicant as well as the community that has a stake in the success of the facility.

In order to maximize the benefits of community engagement, and conserve the limited resources of both the permit applicants and the communities for outreach, EPA has identified what it considers to be effective communication practices and strategies that permit applicants can employ to meaningfully involve communities in the permitting process. EPA gathered these practices and strategies from numerous conversations with environmental justice stakeholders, members of the business community, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC. Based on these conversations, EPA has developed and solicits comment on the Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-line. (See appendix.)

EPA hopes that these best practices, once finalized, will inform businesses and other participants in the permitting process of some effective techniques for meaningfully engaging overburdened communities in the permitting process for EPA-issued permits. The final document would supplement existing guidance and recommendations issued by permitting authorities, including state and local agencies.

The draft best practices presented here are designed to foster emerging leadership among permit applicants operating (or proposing to operate) facilities in overburdened communities. EPA emphasizes that no permit applicant will be required to follow these suggestions. To the contrary, EPA will continue to evaluate permit applications solely based on applicable regulations.

EPA welcomes all comments on these draft best practices for permit applicants. EPA is particularly interested in comments addressing the following questions:

- What different or additional activities could permit applicants employ in the permitting process to meaningfully involve overburdened communities?
- Based on experiences you have had in the permitting process, what lessons have you learned or successful approaches you have employed that can be used by EPA to improve the best practice recommendations for permit applicants?
- How can EPA ensure that communities are aware of the opportunity to have a two-way dialogue with permit applicants through the ideas provided here?

IV. Conclusion

EPA looks forward to considering suggestions and comments received in response to this notice. EPA hopes the creation of agency-wide guidelines and the development of regional implementation plans, as well as the presentation of best practices for permit applicants, will increase the meaningful participation of overburdened communities in the permitting process for EPA-issued permits. Although meaningful involvement in the permitting process may not always lead to reduced environmental impacts, EPA believes that every time an EPA permit writer or a permit applicant acknowledges a concern that would not have been aired but for enhanced outreach, communities and the permit applicant benefit. EPA further believes that every time this enhanced outreach leads to a feasible solution to an issue of interest to the community, all stakeholders benefit.

Dated: June 15, 2012.

Janet McCabe,
Principal Deputy Assistant Administrator, Office of Air and Radiation.

Appendix

Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line

I. INTRODUCTION

Achieving environmental justice is an integral part of EPA's mission to protect human health and the environment. One way EPA promotes environmental justice is to ensure that individuals in all parts of society have access to information sufficient to help them participate in EPA decision-making.

EPA decision-making takes many forms. These best practices focus on the permitting process, through which EPA authorizes industrial and municipal facilities to release pollutants into the environment at levels intended to meet applicable standards.

By soliciting public comment prior to issuing environmental permits, EPA plays an important role in bringing communities and other members of the public into the permitting conversation. But the best time to achieve positive, collaborative dialogue is before the permit is drafted, even before a permit application is filed. And the key players are not EPA but rather permit applicants and members of the neighboring community. Both sets of individuals have a long-term stake in the health of the community and the success of the company or enterprise.

Information is critical at this early stage in the permitting process, and the permit applicant has access to the information that can create a constructive dialogue throughout the permitting process. The permit applicant also has an interest in being a good neighbor to the community on the other side of the facility's fence. EPA believes that many applicants for EPA-issued permits are employing practices to be good neighbors. These best practices are designed to help a permit

applicant to apply its good neighbor values to the permitting process, with an emphasis on ways to reach out effectively to the community at the fence-line.

EPA encourages all permit applicants to experiment with these practices; all neighborhoods and communities will benefit when a facility reaches out as part of its environmental permitting process. This document emphasizes communities at the fence-line because, for the vast majority of permits, communities most proximate to a facility are likely to be the most impacted by a permitting decision. For some permits, however, the communities most impacted by a permitting decision may exist beyond the fence-line. EPA encourages permit applicants for such permits to make efforts to engage the communities that are likely to experience public health or environmental impacts by their permitted activities. These practices also have particular value in overburdened neighborhoods that have been historically underrepresented in the permitting process and may face barriers to participation in the permitting process, such as include lack of trust, lack of awareness or information, language barriers, and limited access to technical and legal resources

While EPA will evaluate a permit application based solely on the applicable regulations, permit applicants are encouraged to employ the suggestions in these best practices. EPA hopes that these best practices – which emerged from EPA’s conversations with a host of community, permit applicants and government stakeholders – will help applicants for EPA-issued permits to seize a leadership role in this important area and, in doing so, demonstrate publicly that the core values on their websites do indeed influence corporate behavior.

II. THE PURPOSE OF BEST PRACTICES

The purpose of these best practices is to publicize the good neighbor practices already employed by permit applicants across the country and to encourage their greater use. Many of these practices are quite simple. The best practices can help build trust, promote a better understanding in the community of the facility's environmental impacts, foster realistic expectations and help build strong partnerships that will lead to better results for all parties. Investing in communities is a cost-effective strategy. EPA encourages permit applicants to make each of its facilities a good neighbor to the communities at their fence-line. EPA hopes that the best practices will help companies think of ways to engage the communities at their fence-lines and, in doing so, become better neighbors.

III. WHY IS EPA PROVIDING BEST PRACTICES TO PERMIT APPLICANTS?

Industrial facilities are important members of the communities in which they are located. In addition to their important role as a source of employment and economic stability within a community, facilities play other roles. Many facilities, for example, have robust community engagement strategies that recognize the value of community outreach. Pursuant to these strategies, facilities engage actively with the community through environmental initiatives, neighborhood beautification projects, education programs and charitable giving, civic programs and the arts, youth activities, and other investments in the community. Indeed, many companies and public authorities embody these principles in their mission statements, using words and phrases like collaboration, respect, and building mutually beneficial relationships. Some even aspire to measure their own success by the success of their customers, shareholders, employees and communities. In short, a corporate culture is emerging in this Nation that values and actively promotes community partnerships.

EPA recognizes that many permit applicants already practice community outreach. These best practices are meant to encourage those leaders to continue their efforts. EPA hopes that the best practices will persuade those who are new to these ideas to experiment with this form of leadership, and to provide helpful suggestions for those seeking greater direction. Indeed, engaging with their communities as described here is consistent with many permit applicants' core values. These principles, practices and values lead to corporate sustainability, stability and – ultimately – profitability.

Early and meaningful dialogue between the permit applicant and the community is especially important in overburdened communities that have historically been underrepresented in the permitting process and that potentially bear a real or believed disproportionate burden of an area's pollution. Meaningful dialogue promotes environmental justice. EPA strongly encourages applicants for EPA-issued permits to engage in public outreach to the neighboring community whenever the facility's pollutant releases have – or may be perceived to have -- potential health and environmental impacts on overburdened communities. This approach is consistent with EPA's objectives under Plan EJ 2014, which promotes meaningful involvement of the affected community in the permitting process.

EPA believes these best practices can foster a smoother and faster permitting process. This outcome is in everyone's interest – EPA, permit applicants and communities alike. The permit applicant and EPA have an interest in an efficient permitting process. The permit applicant wants permission to make operational improvements or construct a new facility. The permitting authority wants to efficiently issue a permit that comports with the law and accounts for public comment. The community at the very least wants the assurance that, through appropriate permit terms and conditions, the permit applicant accepts responsibility for

appropriately controlling its pollutant releases and keeps the community informed of its control successes (and failures). These interests, while different, do not conflict. Conversations between the permit applicant and the community *before the permit application is filed* can help launch the permit process in a way that achieves all of these interests, with minimum conflict and delay. This could result in a more expeditious permitting process.

Engagement early can also yield a less contentious permitting process. It seems axiomatic that no community welcomes one more source of pollution, especially when the community already feels aggrieved by past siting decisions. When the new project accelerates a transition to cleaner energy or achieves another important environmental objective with benefits beyond the local community, interests may seem to collide. Early meaningful dialogue can help sort out the interests, encourage a permit applicant to accept responsibility for *its* impacts, and perhaps find low-cost ways valuable to the community by which the permit applicant can voluntarily mitigate environmental burdens. A community is less likely to hold a new project responsible for past unrelated actions if the permit applicant accepts responsibility for its own actions and is willing to help make community life better.

IV. HOW CAN A PERMIT APPLICANT ENHANCE ITS OUTREACH TO A FENCE-LINE COMMUNITY?

There are many ways that a facility can enhance its outreach to a community. Whatever degree of outreach a facility chooses to employ, the following best practices are designed to help both the permit applicant and the surrounding communities get a reasonable return on their investment of time, energy and other resources. EPA gathered these ideas from permit applicants that have employed them, but the permit applicant and the affected community are in

the best position to determine what engagement strategy is most appropriate for their particular circumstances.

1. Think Ahead

Before deciding whether to undertake special efforts to reach out to the neighboring community regarding a permit application, a permit applicant may want to ask itself the following types of questions. The answers to these questions may help the permit applicant decide what kind of community engagement will make sense under the circumstances.

- Would the new permit introduce new or additional pollutants to the fence-line community?
- Is the fence-line community already exposed to pollutants originating from other facilities?
- How will changes at the facility site affect the quality of life in the fence-line community, independent of the pollutants released?
- Is the proposed pollutant release – or associated activity —likely to cause concern in the community?
- If a risk assessment has been performed for the community, what does it say? What does the community think it says?
- What direction do the permit applicant’s published core values offer?

Some laws, such as the Resource Conservation and Recovery Act, require permit applicants to reach out to the neighboring community before applying for a permit. In most cases, however, the decision on whether to engage in pre-application outreach is committed to the permit applicant’s good judgment. (See Section V below for a discussion of the benefits to permit applicants when they engage the community as part of permit applications.) But whatever way a permit applicant chooses to engage the neighboring community, its outreach activities should be proportional to the actual or perceived impact the facility’s proposed permitting action would

have upon the community. In other words, permitting actions that may have a significant impact on the community may justify more extensive outreach than permits likely to have fewer impacts. Engaging the community early in the permitting process can help a permit applicant gauge the level of outreach appropriate to the community's concerns.

A public participation plan can be a useful tool for permit applicants engaged in outreach on permit actions. A public participation plan is one way to organize all of the permit applicant's outreach activities and to communicate those activities to the community.

EPA also recognizes that a permit applicant, despite its planning and execution, might not elicit community interest in its project. For example, few people might attend meetings or visit the plant for tours. Before concluding that the community is uninterested in the project, the company may want to explore whether its engagement efforts were sufficiently tailored for the community. Other factors, such as lack of awareness of the engagement opportunity or the timing of the opportunity, may not have afforded the community a meaningful chance to attend. If the permit applicant's efforts to engage the community are made in good faith and are sufficiently tailored for the community, this will go a long way toward building trust.

2. Engage Community Leaders

One of the best ways to promote early and meaningful engagement between a permit applicant and the surrounding community is by creating a community environmental partnership. The key is to assemble the *right* people to be in partnership. EPA has learned from stakeholders that the first step in meaningful engagement is the cultivation of a trusting relationship among participating individuals; doing so will then foster effective relationships among the interests they represent and will help identify their common as well as their unique goals. The following best practices can help a company create a successful community environmental partnership.

- Find out who the established community leaders are, both elected and unelected.
- On tribal lands, work with the tribal government and other contacts to identify tribal community leaders to commence outreach and assistance to tribal communities.
- Identify people who collectively understand the needs (and aspirations) of *local* stakeholders (permit applicant, community, environmental groups, academic, etc.)
- Recruit stakeholder representatives who have strong interpersonal skills and are willing to:
 - seek common interests;
 - cultivate a trusting relationship
- Engage with diverse leadership so that many views can be brought into the dialogue.

Successful partnerships have a variety of *local* perspectives, including:

- Grassroots organizations and leaders
- Faith community leaders
- Tribal government and community representatives
- Academic institutions
- State, county or local governments
- Environmental groups
- Health organizations
- Permittees, including, ideally, the facilities in the neighborhood that engage in activities that generate pollution.

Text Box 1: Community Advisory Councils, such as The Deer Park Community Advisory Council (DPCAC, <http://www.deerparkcac.org/>) provide a “forum for an open and frank mutual exchange of ideas between representatives of the local community and industry.” These groups engage in frequent dialogue to help build understanding between industry and community.

- Foster sustained involvement by the participants; relationships are created between individuals, not the positions they hold.

3. Engage Effectively

As is the case with any relationship, predictable and ongoing interactions are key to a strong partnership between a permit applicant and community. A permit applicant engaging a community early in the permitting process, or even before the formal permitting process begins through pre-application meetings, can lay the foundation for a positive relationship with a community. In addition to early engagement, holding regularly scheduled meetings throughout the permitting process can build on that earlier outreach, further fostering the relationship between the community and permit applicant.

The following best practices can help the permit applicant engage effectively with the community.

- If a public participation plan describing outreach activities was developed, make it available to the public as a sign of the permit applicant's intention to engage meaningfully with the community.
- Invite community members and leaders to comment on community outreach plans and processes, and give feedback on what is working and lessons learned.
- Discuss project plans and potential impacts as early in the planning process as possible, even if the permit applicant can speak only in general terms.
 - If the permit applicant is unsure about potential impacts, it is better to acknowledge this fact; denying the existence of potential impacts can undermine credibility and trust.

- Encourage input from the community on their concerns about particular impacts early in the planning stages.
- Provide progress or status reports
- Invite members of the community and community leaders for regular tours of the facility, especially when the facility is planning to change a process that might affect the community.
- Consider investing time in public education, e.g., by hosting one or two day public information sessions with posters and kiosks dedicated to specific topics, with discussions led by facility personnel who are both familiar with the subject *and* capable of effective discussion with the public (conversational tone, not defensive, non-technical language, etc.)

4. Communicate effectively

Permit applicants may need help to determine the most effective and appropriate methods for informing and receiving input from the community. Community leaders can provide this help. For example they can identify commonly spoken languages and any language barriers or Limited English Proficiency within the fence-line. They can also help identify which media outlets (radio, newspaper, church bulletins), outreach methods (knocking door-to-door, using social media, texting, phoning, putting up fliers) and outreach materials (brochures, fact sheets, postcards, letters) will be most effective in communicating with the community. Community leaders can also help to create more effective opportunities to receive information from the public (individual/small/large/public/private meetings, anonymous hotlines, solicitation of written comments). Every community is different, so permit applicants that listen to their

community's advice and involve them in their outreach efforts have a greater chance of a successful outcome.

A key component of effective communication is creating an environment for all stakeholders to meaningfully participate in a dialogue. Good ideas, including ideas that are good for the permitted enterprise or business, can come from many sources. By meaningfully engaging with the community potentially affected by an environmental permit, a permit applicant may acquire a better sense of a community's true concerns and ways a permit applicant could help alleviate them. Transparency and disclosure of information that may be of interest to a community, such as performance reports, can build trust conducive to meaningful dialogue.

Text Box 2: Alternative Dispute Resolution

The success of pre-application meetings will vary widely depending on the proposed project, the concerns of the community, and the ability of the permit applicant and the community to agree upon potential solutions. Sometimes, conversations between a community and a permit applicant have the potential to be contentious. As such, EPA recommends the use of a professional, trained, neutral facilitator to aid in creating and implementing their outreach strategy. EPA and The U.S. Institute for Environmental Conflict Resolution have designed and initiated The National Roster of Environmental Dispute Resolution and Consensus Building Professionals (<http://roster.ecr.gov/Search.aspx>), which is a resource to identify neutral third parties and connect them with appropriate projects.

EPA recognizes that both permit applicants and the communities have limited resources to engage in dialogue. The following best practices on fostering two-way communication and collaboration between permit applicants and communities, collected from permit applicants and communities, may help permit applicants communicate more effectively and thus efficiently use their resources.

- Set up a hotline for community members to report a problem or concern about the proposed project.
- Identify a single person within the facility to be the liaison that community members can call with concerns or problems.

- Institute regular meetings among all stakeholders
- Consider organizing citizen advisory councils or community environmental partnerships
- Select meeting locations and times that are convenient and comfortable for the community. Follow advice from community leaders to communicate in ways most effective for the community you are trying to reach. Use language and terminology that the community understands, including providing technical data in every-day terms.
- Build in mechanisms for meeting attendees to ask questions, express concerns and propose solutions.
- During the meeting, talk about participants' concerns and questions (rather than simply "taking note" of them).
- Recognize that community members may be concerned about a variety of things, within and outside the permit applicant's control, including matters that do not relate to the permit under discussion (e.g., truck routes, delivery times, etc.)
 - Careful listening and an effort to understand the underlying interests behind related and seemingly unrelated complaints might yield a solution that addresses the community's true concerns at a reasonable (or even minimal) cost to the facility.
- Consider using a neutral facilitator to assist in designing an effective public participation process and conduct meetings to encourage all participants (permit applicant and community like) to listen effectively, focus on interests rather than initial positions, and to identify potential solutions.

5. Follow Up

Follow-up can be crucial in building a strong partnership with a community. The repeated interaction that follow-up provides can create a predictable pattern of engagement that is conducive to building trust. When a permit applicant delivers on commitments made during meetings (e.g., to provide additional information) a permit applicant demonstrates responsibility, integrity and commitment to the process. The following best practices can help permit applicants design follow-up activities with communities.

- If the public is invited to comment on plans, discuss the comments with the community after considering them.
 - If a comment is not clear, ask for clarification; do not ignore a suggestion due to a lack of understanding.
 - Report back to the community to let them know how their comments affected the permit applicant's planning or operation.
 - Explain when comments cannot be incorporated into the permit applicant's planned actions.
- Consider using a good neighborhood agreement to memorialize agreements between permit applicants and communities.
- Make environmental performance records available to the community without being asked, especially regarding pollution matters that are important to the community.
- Keep the conversation going even after the permit has been issued; maintaining a collaborative relationship with the community can pay benefits at unexpected times.

V. RETURN ON INVESTMENT: BENEFITS OF OUTREACH TO PERMIT APPLICANTS

EPA recognizes that a permit applicant would need to invest time, energy and money in order to reach out to the neighboring community. For some permit applicants, “business as usual” might appear to be the path of least resistance. But EPA has learned from conversations with permittees that permit applicants that engage in effective outreach with fence-line communities can realize a meaningful return on that investment. The list below reflects these conversations. To further illustrate these ideas, we present text (in italics) from corporate mission statements, lists of corporate values, and annual reports linking these benefits from effective community outreach and engagement to overarching business principles.

1. The neighborhood has a stake in a permit applicant’s success. Community members are not only neighbors, but also often employees, customers or investors. As such, healthy and sustainable companies directly promote healthy and sustainable communities. That alignment of interests can lead to creative solutions that promote the achievement of mutual economic goals in more sustainable ways. *We are proud of our involvement in the communities where we operate. It’s our goal not only to support important projects in the communities where we operate, but also to partner and build relationships where we live and work. We always listen to local needs and find ways to invest that are relevant to our business.*
2. An environment of trust pays dividends throughout the permit term. A permit applicant not only applies for a permit but also develops strategies for complying with its requirements. Meaningful public engagement during the permitting process and throughout the permit term can be a thoughtful component of a permit applicant’s compliance strategy. Community members often say they have nowhere to turn when they worry about their local environment; a meaningful dialogue with the permit applicant that addresses their concerns

can build trust. So, a permit applicant that experiences a failure of its treatment processes – and, in real time, discloses and takes action to remedy the problem – may maintain its reservoir of trust within the community. *We know you have questions; call us. We believe that people work best when there's a foundation of trust.*

3. Engaging with the community is an effective cost-containment strategy. Permit applicants that foster meaningful community outreach experience “costs” in terms of time, resources energy, and money. But a permit applicant that bypasses outreach incurs costs as well, especially when these choices lead to misunderstandings in the community. Even if the permit is granted, at what cost? Certainly, the permit applicant incurs the cost of delay, negative publicity among peers and investors, and community distrust (even apart from attorneys’ fees associated with litigation). Each of these costs has a monetary value and each is potentially avoidable with an upfront investment. Good business sense often dictates a small investment early in order to avert larger costs later. Corporate leaders tell us that meaningful community outreach is no different. *Successful companies engage in long-term planning to achieve strategic goals. Working with the community during project development and implementation is just part of the process.*
4. Engaging with the community is an effective risk management strategy. Thoughtful risk-taking is a characteristic of many successful enterprises. A permit applicant engaged in thoughtful risk-taking around a new idea routinely gathers information and critically examines the idea from many perspectives, identifies the range of possible risks, modifies the idea as appropriate to minimize the risks, and then weighs the benefits against the risks that remain. The better a permit applicant anticipates and manages the risks, the more predictable and successful the outcome. Engaging the community early in a permit applicant’s decision-

making process can be an effective way to manage the risks of a new idea. A permit applicant that is truly open to gathering information, dialogue, and collaboration will find itself with a more predictable operating or business environment, reduced conflict, and, frequently, an outcome that achieves greater operational efficiency and community support. Its risk-taking is thoughtful because it identifies, analyzes and manages its risks. Permit applicants that are thoughtful risk-takers recognize that having an engaged and informed community as an ally promotes reasonable expectations among the public and, therefore, more predictable outcomes. *We practice humility and intellectual honesty. We consistently seek to understand and constructively deal with reality in order to create value and achieve personal improvement.*

5. A permit applicant that engages meaningfully with a community is more likely to be considered a good neighbor. A permit applicant is more likely to be seen as a good neighbor by a community when it makes efforts to engage and build a relationship with the community. Having treated the community as a good neighbor, the permit applicant is more likely to be treated as a good neighbor in return by the community. A community that understands the actual impacts a facility has on the neighborhood and trusts the facility to behave responsibly may also be less likely to hold the facility responsible for other facilities' pollution. *We are committed to improving our environmental performance: we track our progress and report our results to the public.*
6. Investors prefer good corporate citizens. Even if a permit applicant survives a dispute with a community over a new project and obtains the necessary environmental permits, investors may well inquire whether that costly battle could have been avoided. Indeed, some investors might even wonder whether the permit applicant's inadequate response to the neighboring

community's concerns signals a lack of corporate responsibility, values-based leadership, or long-term strategic thinking that is important in other areas of the business. Leaders in this area say: *It is more important than ever that we continually earn investor confidence. We will do this by remaining a leader in good corporate governance and providing clear, consistent, and truthful communication about our performance.*

Text Box 3: Collaborations in Chester, Pennsylvania

Since the early 1990s, US EPA Region III has been working closely with the community and residents of Chester. With effective collaborations and partnerships, the City of Chester and its residents have successfully worked with local business and industry, government, and academia. These community-driven partnerships have led to increased awareness of environmental justice within the City of Chester.

When citizens first raised their Environmental Justice concerns to EPA Region III, the regional Office took action by establishing a dialogue with the citizens, PADEP, PADOH, and a number of local businesses in an effort to bring greater understanding and resources to the issues and concerns. EPA Region III, PADEP, and PADOH were active in working with the community and the other partners to address the issues that had been raised. The 1995 EPA Chester Risk Study not only looked at community risk and environmental concerns, but opened dialogues among the partners, and led to the formation of a number of workgroups. The workgroups then undertook on-the-ground actions to address some of the local concerns. PADEP provided an onsite inspector for the City of Chester. EPA and PADEP continued their dialogue on Environmental Justice, holding a number of joint meetings on the issues.

Covanta Energy applied for permits to operate in Chester, and the citizens raised their concerns to Region III and PADEP. PADEP hosted a series of meetings between the citizens and the company. From these collaborative discussions, the Chester residents' concerns were heard and considered, and an agreement was reached that allowed for the citizens and the company to have their needs met. Covanta continues to work proactively with the citizens in a productive and successful partnership, primarily through a citizen-led community organization called the Chester Environmental Partnership, founded and chaired by Reverend Dr. Horace Strand. The residents and other community stakeholders, including Covanta, have worked together in a primarily cooperative fashion to effect change and environmental improvement in Chester. The Chester Environmental Partnership works to bring about environmental improvement and growth by bringing all parties to the table – industry, government, non-government organizations, and the citizens – to have face to face dialogue on issues of concern. Covanta has taken an active partnership role in CEP. The ongoing dialogue and ground work of the partnership is a hallmark of these collaborative efforts and reflects a community-driven model that has produced positive results for Chester and its neighbors.

CONCLUSION

The best practices are a starting point intended to initiate partnerships between communities and permit applicants. EPA believes that a permit applicant that follows the best

practices will take an important step on the path to building a fruitful and cooperative relationship with the community on environmental issues. EPA also believes that a permit applicant's efforts to meaningfully engage an overburdened community are an important way to promote environmental justice. EPA agrees with the message that many stakeholders send: collaborations between permit applicants and the surrounding neighborhoods achieve greater environmental protections, more profitable operations, and more sustainable communities.

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